



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,129	10/24/2003	Barbara Jennings	20475-1	1695
572	7590	07/13/2005	EXAMINER	
CLIFFORD A. POFF 9800B MCKNIGHT ROAD SUITE 115 PITTSBURGH, PA 15237			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/693,129	JENNINGS, BARBARA	
	Examiner	Art Unit	
	Alissa L. Hoey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,11,12,15,19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,10,13,14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

I) an upper body garment: figures 2, 3, 5A, 5B, 6A, and 6B

II) a short trouser garment: figures 7A, 7B, 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B, 12A, and 12B.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 18 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

Art Unit: 3765

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Sub-Species

If Group I or Group II is elected above than an additional election of species is required for a specific handheld configuration.

A) parallel opening cut in the fabric: figures 13A and 13B.

B) handheld with rigid rod member: figures 14, 15, 16, and 17.

C) opening reinforced with dual patches: figures 18, 19, 20, and 21.

D) handheld with rigid member attached to a reinforced patch that is removable from the garment: figures 22 and 23.

2. During a telephone conversation with Clifford Poff on 07/06/05 a provisional election was made without traverse to prosecute the invention of group II detailing a short trouser garment and group B the handheld with rigid rod member, claims 1-7, 10, 13, 14, 16 (second instance), 17 (second instance) and 18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8, 9, 11, 12, 15, 16 (first instance), 17 (first instance), 19 and 20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3765

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 6, 10, 13, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Jennings (US 6,230,329).

In regard to claim 1, Jennings teaches a garment (10) used by a caregiver, the garment comprising a garment body including a front garment portion and a back garment portion constructed and arranged for traversing front and back areas of a patient from at least the waist line area of the patient (figures 3 and 4). Means formed on the garment body including a plurality of extended garment portions movable into positions to cover at least part of a patient and forming a garment body interconnection between the front garment portion and the back garment portion (figures 3 and 4). The plurality of extended garment portions having lengths sufficient to anchor the front and back garment portions in at least one direction perpendicular to the waist line area of the patient (21, 22). A plurality of handholds (38, 44, 36, 46) on the garment body for use by a caregiver to manipulate the patient (column 1, lines 19-39).

In regard to claim 2, Jennings teaches the plurality of extended garment portions including short trouser garment leg portions and wherein the garment further comprises attachment devices operable along an inseam of the short trouser garment leg portions for reattachment of garment margins along the inseam (Figures 3 and 4, column 4, lines 5-13 and column 3, lines 30-22).

In regard to claim 3, Jennings teaches the plurality of extended garment portions including short trouser garment leg portions having an opening in the crotch area to

avoid compression of genital organs of a male patient (figures 3 and 4, identifiers 21, 22).

In regard to claim 5, Jennings teaches the garment body being made of a soft, quilted fabric for patients who generally remain in bed (column 4, lines 28-46).

In regard to claim 6, Jennings teaches the garment body being made of a non-stretch fabric for a patient (column 3, lines 1-9).

In regard to claim 10, Jennings teaches the plurality of handholds (38) including at least one handhold disposed on the front garment portion and wherein the front portion extends downwardly from the waistline area (figure 3).

In regard to claim 13, Jennings teaches the garment body including side garment portions between the front garment portion and the back garment portion. The plurality of handholds further includes at least two handholds (38) disposed on the side garment portions (figures 3 and 4).

In regard to claim 14, Jennings teaches at least one of the handholds are formed in the garment body and includes a pair of parallel openings defining a strap there between for grasping by a caregiver (Figure 2).

In regard to claim 16 (second instance), Jennings teaches the garment body is further defined to consist of short trousers defined by an inseam for access to leg openings at an area opposite to the waist area and is capable of facilitating removable of an undergarment without removable of the trouser for a patient (column 4, lines 5-13). The garment further includes fasteners for reattachment of the trousers to a patient along the inseam (column 3, lines 30-40).

Art Unit: 3765

5. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Harlem et al. (US 5,799,328).

In regard to claim 18, Harlem teaches a garment (10) used by a caregiver, the garment comprising a garment body including a front portion and a back portion that at least partially covers a patient (figures 1). A plurality of handholds (44) including at least one rigid member in the garment body for improving a grip by a caregiver to manipulate a patient (column 4, lines 17-23).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings.

In regard to claim 17 (second instance), Jennings teaches fasteners attaching the inseam of the leg together. However, Jennings fails to teach the fasteners being hook and loop type fasteners.

It would have been obvious that the releasable fasteners on the leg inseam of Jennings could be hook and loop type fasteners, since hook and loop type fasteners are well known releasable fasteners used in the in the apparel arts.

8. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings in view of Swantees (US 1,432,804).

Jennings teaches a garment as described above in claim 1. However, Jennings fails to teach the plurality of extended garment portions including a right tail portion and a left tail portion and attachment devices carried by a distal end of the right tail portion and distal end of the left tail portion. Further, Jennings fails to teach the plurality of extended garment portions having extended distal ends for passage through each of a left loop and a right loop disposed on the front portion and each of the extended distal ends being attached back on itself by fasteners.

In regard to claims 4 and 7, Swantees teaches plurality of extended garment portions including a right tail portion and a left tail portion and attachment devices carried by a distal end of the right tail portion and distal end of the left tail portion (figures 1 and 3, identifiers 1, 2, 3, 4, 6 and 7).

It would have been obvious to have provided the distal end of the tail portions attaching directly to the garment front portion or passed through loops and attached by upon itself, because as long as the distal ends of the tail portions are fastener to the front of the garment and provide for access to the users crotch along with adjusting comfort the type of fastening arrangement is not critical. Therefore, the fastening devices of the distal ends of the tail portions being attached to the garment or looped around and attached to itself are equivalents since they both secure the tail portions in place.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swantees, Schustack, Carlson, Knight, Horton, McGowan,

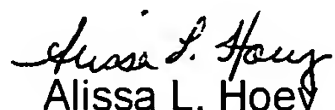
Art Unit: 3765

Snyder, Rahaman, Proffer, Luzenske, DiPietro, Ray, Tino, Tokura, Carter et al., Simmons, DeBaene, Madorma, Marquez and McDonlad are all cited to show closely related garment articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alissa L. Hoey
Primary Examiner
Technology Center 3700